

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1706-PST-E TCEQ ID: RN102424884 CASE NO.: 34825
RESPONDENT NAME: Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Petro Stopping Center 4, 5405 Walden Road, Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Travel center with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2007-0025-MLM-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney/SEP Coordinator: None</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171</p> <p style="margin-left: 20px;">Respondent: Mr. David Plummer, Environmental Associate, Petro Stopping Centers, L.P., P.O. Box 451100, Westlake, Ohio 44145</p> <p style="margin-left: 20px;">Mr. Clark Rudy, Director of Engineering, Petro Stopping Centers, L.P., P.O. Box 451100, Westlake, Ohio 44145</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 26, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 11, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to prevent an unauthorized discharge of diesel fuel. Specifically, during the transfer of diesel from the above ground storage tank ("AST") to the underground storage tank ("UST"), the UST system overfilled and diesel was released via the diesel vent and petroleum product sheen was observed on vegetation, soil, and concrete driveway surfaces adjacent to the diesel UST fillports [30 TEX. ADMIN. CODE § 334.48(a)].</p> <p>2) Failed to submit a site assessment report to the Commission within 45 days of release confirmation [30 TEX. ADMIN. CODE § 334.78(c)].</p> <p>3) Failed to ensure spill and overfill prevention equipment is properly operated and maintained. Specifically, the shut-off devices for the automatic fuel delivery system were not operating at the time of the spill occurrence [30 TEX. ADMIN. CODE § 334.48(d) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>4) Failed to ensure that Facility personnel conducting the transfer operation of a regulated substance is physically present at or near the transfer point to abate any spill or overfill. Specifically, during the fuel transfer, the operator left the pump house controls during the transfer and was not immediately aware of the spill occurrence</p>	<p>Total Assessed: \$16,050</p> <p>Total Deferred: \$3,210 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$12,840</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. The TCEQ Beaumont Regional Office received documentation verifying that the release from the UST system has been contained, mitigated, and remediated by a licensed PST contractor on August 13, 2007; and</p> <p>b. The TCEQ Beaumont Regional Office received documentation verifying that the site assessment release report was submitted to the agency on September 27, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin maintaining all UST records.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Ensure the spill and overfill prevention equipment is properly operated and maintained, inspected and serviced; and</p> <p>ii. Ensure Facility personnel are properly trained on the operation, monitoring, and shutdown of the automatic AST diesel fuel delivery/transfer operation.</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through b.ii.</p>

<p>[30 TEX. ADMIN. CODE § 334.51(a)(4)(A) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>5) Failed maintain records of results for all manual and/or automatic methods of monitoring for releases. Specifically, the automatic tank gauge printout for July 14, 2007, the day of the release, had been discarded and was not available for review [30 TEX. ADMIN. CODE §§ 334.10(b) and 334.50(e)(2)(C)].</p>		
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Additional ID No(s): PST 20002



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned PCW	15-Oct-2007	Screening	19-Oct-2007	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Petro Stopping Centers, L.P. dba Petro Stopping Center 4		
Reg. Ent. Ref. No.	RN102424884		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	34825	No. of Violations	4
Docket No.	2007-1706-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **7% Enhancement** **Subtotals 2, 3, & 7** **\$1,050**

Notes Enhancement for one NOV with same or similar violations and one NOV with dissimilar violations.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts **\$49** **0% Enhancement*** **Subtotal 6** **\$0**
Approx. Cost of Compliance **\$2,350** ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$16,050**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$16,050**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$16,050**

DEFERRAL **20%** **Reduction** **Adjustment** **-\$3,210**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$12,840**

Screening Date 19-Oct-2007

Docket No. 2007-1706-PST-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center

Policy Revision 2 (September 2002)

Case ID No. 34825

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same or similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 7%

Screening Date 19-Oct-2007		Docket No. 2007-1706-PST-E		PCW																
Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4		<i>Policy Revision 2 (September 2002)</i>																		
Case ID No. 34825		<i>PCW Revision September 19, 2007</i>																		
Reg. Ent. Reference No. RN102424884																				
Media [Statute] Petroleum Storage Tank																				
Enf. Coordinator Judy Kluge																				
Violation Number		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>																		
Rule Cite(s)		<div style="border: 1px solid black; width: 100%; padding: 5px;">30 Tex. Admin. Code § 334.48(a)</div>																		
Violation Description		<div style="border: 1px solid black; width: 100%; padding: 5px;">Failed to prevent an unauthorized discharge of diesel fuel. Specifically, during the transfer of diesel from the AST to the UST, the UST system overfilled and diesel was released via the diesel vent and petroleum product sheen was observed on vegetation, soil, and concrete driveway surfaces adjacent to the diesel UST fillports.</div>																		
Base Penalty				<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,000</div>																
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="margin: auto;"> <tr> <td></td> <th colspan="3">Harm</th> </tr> <tr> <td>Release</td> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td>Actual</td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual		x		Potential			
		Harm																		
	Release	Major	Moderate	Minor																
	Actual		x																	
Potential																				
Percent				<div style="border: 1px solid black; width: 100px; text-align: right;">50%</div>																
>> Programmatic Matrix																				
OR	<table border="1" style="margin: auto;"> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td>Falsification</td> <td></td> <td></td> <td></td> </tr> </table>					Major	Moderate	Minor	Falsification											
		Major	Moderate	Minor																
	Falsification																			
	Percent				<div style="border: 1px solid black; width: 100px; text-align: right;">0%</div>															
Matrix Notes				<div style="border: 1px solid black; width: 100%; padding: 5px;">Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>																
Adjustment				<div style="border: 1px solid black; width: 100px; text-align: right;">\$5,000</div>																
<div style="border: 1px solid black; width: 100px; text-align: right;">\$5,000</div>																				
Violation Events																				
Number of Violation Events		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>	<div style="border: 1px solid black; width: 100px; text-align: center;">30</div>	Number of violation days																
mark only one with an x	daily	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	Violation Base Penalty <div style="border: 1px solid black; width: 100px; text-align: right;">\$5,000</div>																	
	monthly	x																		
	quarterly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>																		
	semiannual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>																		
	annual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>																		
	single event	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>																		
One monthly event is recommended from the July 14, 2007 release discovery date to the August 13, 2007 compliance date.																				
Economic Benefit (EB) for this violation		Statutory Limit Test																		
Estimated EB Amount		<div style="border: 1px solid black; width: 100px; text-align: right;">\$4</div>	Violation Final Penalty Total <div style="border: 1px solid black; width: 100px; text-align: right;">\$5,350</div>																	
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; width: 100px; text-align: right;">\$5,350</div>																

Economic Benefit Worksheet

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No. 34825
Reg. Ent. Reference No. RN102424884
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$1,000	14-Jul-2007	13-Aug-2007	0.1	\$4	n/a	\$4
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the UST system, mitigate explosive hazards, and to properly dispose of contaminated soils. The date required is the date the release was discovered and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$4

Screening Date 19-Oct-2007		Docket No. 2007-1706-PST-E		PCW
Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4				<i>Policy Revision 2 (September 2002)</i>
Case ID No. 34825				<i>PCW Revision September 19, 2007</i>
Reg. Ent. Reference No. RN102424884				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>		
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px; text-align: center;">30 Tex. Admin. Code § 334.78(c)</div>		
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failed to submit a site assessment report to the Commission within 45 days of release confirmation.</div>		
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>

>> Environmental, Property and Human Health Matrix

OR	Release	Major	Harm Moderate	Minor	Percent		
	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			0%
	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent	
<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		

Matrix Notes	<div style="border: 1px solid black; padding: 5px; text-align: center;">100% of the rule requirement was not met.</div>
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Adjustment	<div style="border: 1px solid black; padding: 2px; text-align: center;">\$7,500</div>
<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>	

Violation Events

Number of Violation Events	<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>	30	Number of violation days
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mark only one with an x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty	
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		
	single event	x		

One single event is recommended based on documentation of the violation during the July 26, 2007 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2</div>
	Violation Final Penalty Total
	<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,675</div>
This violation Final Assessed Penalty (adjusted for limits)	
<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,675</div>	

Economic Benefit Worksheet

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No. 34825
Reg. Ent. Reference No. RN102424884
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	28-Aug-2007	27-Sep-2007	0.1	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit a site assessment report to the Commission. The date required is 45 days after the date of discovery of the release and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$2

Screening Date 19-Oct-2007

Docket No. 2007-1706-PST-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 34825

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 334.48(d) and 334.51(a)(4)(A) and Tex. Water Code § 26.3475(c)(2)

Violation Description

Failed to ensure spill and overfill prevention equipment is properly operated and maintained. Specifically, the shut-off devices for the automatic fuel delivery system were not operating at the time of the spill occurrence. Failed to ensure that Facility personnel conducting the transfer operation of a regulated substance is physically present at or near the transfer point to abate any spill or overfill. Specifically, during the fuel transfer, the operator left the pump house controls during the transfer and was not immediately aware of the spill occurrence.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

85 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One quarterly event is recommended based on documentation of the violation during the July 26, 2007 investigation to the October 19, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38

Violation Final Penalty Total \$5,350

This violation Final Assessed Penalty (adjusted for limits) \$5,350

Economic Benefit Worksheet**Respondent** Petro Stopping Centers, L.P. dba Petro Stopping Center 4**Case ID No.** 34825**Reg. Ent. Reference No.** RN102424884**Media** Petroleum Storage Tank**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings	\$250	26-Jul-2007	19-Jun-2008	0.9	\$1	\$15	\$16
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	26-Jul-2007	19-Jun-2008	0.9	\$23	n/a	\$23
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace the shut-off devices and properly train personnel. The dates required are the investigation dates and the final dates are the expected dates of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$750

TOTAL

\$38

Screening Date 19-Oct-2007

Docket No. 2007-1706-PST-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 34825

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 334.10(b) and 334.50(e)(2)(C)

Violation Description

Failed maintain records of results for all manual and/or automatic methods of monitoring for releases. Specifically, the automatic tank gauge printout for July 14, 2007, the day of the release, had been discarded and was not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

85 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the July 26, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$2,675

This violation Final Assessed Penalty (adjusted for limits) \$2,675

Economic Benefit Worksheet

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No. 34825
Reg. Ent. Reference No. RN102424884
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	26-Jul-2007	22-May-2008	0.8	\$4	n/a	\$4
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost maintain all UST records. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator:	CN600788327	Petro Stopping Centers, L.P.	Classification: AVERAGE	Rating: 3.10
Regulated Entity:	RN102424884	PETRO STOPPING CENTER 4	Classification: AVERAGE	Site Rating: 5.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	20002
Location:	5405 WALDEN RD, BEAUMONT, TX, 77705		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	October 24, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 15, 2002 to October 15, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Judy Kluge Phone: (817) 588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

Components (Multimedia) for the Site :

A.	Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.		
	N/A		
B.	Any criminal convictions of the state of Texas and the federal government.		
	N/A		
C.	Chronic excessive emissions events.		
	N/A		
D.	The approval dates of investigations. (CCEDS Inv. Track. No.)		
	1	05/30/2006	(480372)
	2	11/27/2006	(519309)
	3	10/11/2007	(595775)
E.	Written notices of violations (NOV). (CCEDS Inv. Track. No.)		
	Date:	05/31/2006	(480372)
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 334, SubChapter A 334.10(b)[G]	
	Description:	Failure to make all PST records available for the investigation.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)	
	Description:	Failure to install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 115, SubChapter C 115.246(1) 30 TAC Chapter 115, SubChapter C 115.246(5)	
	Description:	Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system and any related components installed at the facility. Failure to maintain a record of the results of Stage II testing conducted at the motor vehicle fuel dispensing facility.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 115, SubChapter C 115.246(5)	
	Description:	Failure to maintain a record of the results of Stage II testing conducted at the motor vehicle fuel dispensing facility.	
	Self Report?	NO	Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.222(3)
30 TAC Chapter 115, SubChapter C 115.242(4)
Description: Failure to ensure no avoidable gasoline leaks, as detected by sight, sound, or smell,
exist anywhere in the liquid transfer or vapor balance systems.
Date: 08/15/2006 (483104)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.4(1)
Description: Failure to collect and store used oil as required.

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PETRO STOPPING CENTERS, L.P.
DBA PETRO STOPPING CENTER 4
RN102424884**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1706-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Petro Stopping Centers, L.P. dba Petro Stopping Center 4 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a travel center with retail sales of gasoline at 5405 Walden Road in Beaumont, Jefferson County, Texas (the "Facility").
2. The Respondent's two underground storage tanks ("USTs") and one above ground storage tank ("AST") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 16, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixteen Thousand Fifty Dollars (\$16,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The

Respondent has paid Twelve Thousand Eight Hundred Forty Dollars (\$12,840) of the administrative penalty and Three Thousand Two Hundred Ten Dollars (\$3,210) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. The TCEQ Beaumont Regional Office received documentation verifying that the release from the UST system has been contained, mitigated, and remediated by a licensed PST contractor on August 13, 2007; and
 - b. The TCEQ Beaumont Regional Office received documentation verifying that the site assessment release report was submitted to the Commission on September 27, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent an unauthorized discharge of diesel fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(a), as documented during an investigation conducted on July 26, 2007. Specifically, during the transfer of diesel from the AST to the UST, the UST system overfilled and diesel was released via the diesel vent and petroleum product sheen was observed on vegetation, soil, and concrete driveway surfaces adjacent to the diesel UST fillports.

2. Failed to submit a site assessment report to the Commission within 45 days of release confirmation, in violation of 30 TEX. ADMIN. CODE § 334.78(c), as documented during an investigation conducted on July 26, 2007.
3. Failed to ensure spill and overfill prevention equipment is properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 334.48(d) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on July 26, 2007. Specifically, the shut-off devices for the automatic fuel delivery system were not operating at the time of the spill occurrence.
4. Failed to ensure that Facility personnel conducting the transfer operation of a regulated substance is physically present at or near the transfer point to abate any spill or overfill, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(4)(A) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on July 26, 2007. Specifically, during the fuel transfer, the operator left the pump house controls during the transfer and was not immediately aware of the spill occurrence.
5. Failed maintain records of results for all manual and/or automatic methods of monitoring for releases, in violation of 30 TEX. ADMIN. CODE §§ 334.10(b) and 334.50(e)(2)(C), as documented during an investigation conducted on July 26, 2007. Specifically, the automatic tank gauge printout for July 14, 2007, the day of the release, had been discarded and was not available for review.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Petro Stopping Centers, L.P. dba Petro Stopping Center 4, Docket No. 2007-1706-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10.

- b. Within 30 days after the effective date of this Agreed Order:
 - i. Ensure the spill and overfill prevention equipment is properly operated and maintained, inspected and serviced, in accordance with 30 TEX. ADMIN. CODE § 334.48; and
 - ii. Ensure Facility personnel are properly trained on the operation, monitoring, and shutdown of the automatic above ground storage tank diesel fuel delivery/transfer operation, in accordance with 30 TEX. ADMIN. CODE § 334.51.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

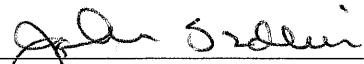
after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director


3/10/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

1/14/08
Date

CLARK R. JOY

Name (Printed or typed)
Authorized Representative of
Petro Stopping Centers, L.P. dba Petro Stopping Center 4

DIRECTOR OF ENGINEERING

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

